CHAPTER 14 AMENDMENTS TO SUBPART OOOO

This chapter addresses the EPA's responses to public comments on revisions to Subpart OOOO in the EPA's Proposed *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources.*

Commenters also raised issues on topics that are not covered by this chapter. Please refer to the following chapters for responses specific to those issues:

- **Chapter 1**: Source Category
- **Chapter 2**: Regulation of Methane
- **Chapter 3**: Well Completions
- **Chapter 4**: Fugitives Monitoring
- **Chapter 5**: Pumps
- **Chapter 6**: Controllers
- **Chapter 7**: Compressors
- **Chapter 8**: Equipment Leaks at Natural Gas Processing Plants
- **Chapter 9**: Liquids Unloading
- **Chapter 10**: Storage Vessels
- **Chapter 11**: Compliance
- **Chapter 12**: Regulatory Impact Analysis
- **Chapter 13**: Existing State, Local, and Federal Rules
- **Chapter 15**: Miscellaneous
- **Chapter 16**: Comment Period Extension

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 15

Comment: Issue-EPA proposed several new requirements for control devices and closed vent systems to subpart OOOO that could be viewed as new requirements to be applied retroactively to affected facilities initially constructed between August 23, 2011 and September 18, 2015. This is inappropriate as NSPS rule changes may only be prospective and not retrospective. Amongst the numerous changes, proposed paragraph §60.5370(d) encapsulates the problem best by stating:

You are deemed to be in compliance with this subpart if you are in compliance with all applicable provisions of subpart OOOOa of this part. This suggests that new requirements in subpart OOOOa for subpart OOOO affected facilities will be applicable when subpart OOOOa is finalized. The only purpose for modifying subpart OOOO should be to end date the rule since it is being replaced with subpart OOOOa.

Recommendation – EPA should remove all new compliance requirements being proposed in subpart OOOO and only finalize changes to paragraphs §60.5360 and §60.5365 which end date the applicability of subpart OOOO and that correct issues that do not add new regulatory burden.

EPA SHOULD NOT FINALIZE RETROACTIVE REQUIREMENTS TO SUBPART OOOO

EPA proposed several new requirements for control devices and closed vent systems to Subpart OOOO that could only be viewed as new requirements to be applied retroactively to affected facilities initially constructed between August 23, 2011 and September 18, 2015. This is inappropriate as NSPS rule changes should only be prospective and not retrospective. Amongst the numerous changes, proposed paragraph §60.5370(d) encapsulates the problem best by stating: *You are deemed to be in compliance with this subpart if you are in compliance with all applicable provisions of Subpart OOOOa of this part.*

This suggests that new requirements in Subpart OOOOa for Subpart OOOO affected facilities will be applicable when subpart OOOOa is finalized. Examples of the specific problems cause by this retroactivity can be found in Sections 14.1 and 25.6.1 for detailed comments on this matter for bypass devices and storage vessels, respectively.

The D.C. Circuit has made it clear that regulatory agencies do not have authority to impose retroactive regulations unless that authority is expressly provided by Congress. Georgetown University Hospital v. Bowen, 821 F. 2d 750, 757 (D.C. Cir. 1987) (absent clear Congressional intent to the contrary, "legislative rules [should] be given future effect only."). There is no indication in § 111 or the CAA as a whole that Congress granted EPA authority to impose retroactive requirements under an NSPS. Therefore, EPA should make it clear in this rule that all new requirements apply prospectively and only to newly affected sources. The only purpose for modifying any part in the existing Subpart OOOO should be to end date the rule and correct

issues that do not add new regulatory burden since it is being replaced with Subpart OOOOa. EPA should remove all new compliance requirements being proposed in subpart OOOO and only finalize changes to paragraphs §60.5360 and §60.5365 which 1) end date the applicability of Subpart OOOO and 2) technical clarifications.

Response: The EPA disagrees that any change to subpart OOOO constitutes a retroactive change of standards. The EPA is finalizing several changes to subpart OOOO to clarify and correct certain aspects of the rule. These technical corrections are not meant to be a retroactive application of new requirements. However, in making amendments to the final rule, we have taken the commenter's concerns into consideration to avoid inadvertently imposing retroactive requirements.

We first address the commenter's concern with our statement in §60.5370(d) that you are deemed to be in compliance with this subpart OOOO if you are in compliance with all applicable provisions of subpart OOOOa. We recognized that there will likely be situations where a single location will include affected facilities subject to subpart OOOO and other affected facilities subject to subpart OOOOa. In order to ease the compliance burden on the owner or operator, we added this provision to allow the owner or operator the option of complying only with subpart OOOOa. The EPA is not imposing subpart OOOOa requirements on subpart OOOO affected facilities.

Second, we address the amendments we are finalizing for control devices and closed vent systems. We finalized these changes to address numerous items in our ongoing effort to address petitions for reconsideration on subpart OOOO. These amendments address: storage vessel control device monitoring and testing provisions; initial compliance requirements for bypass devices; recordkeeping requirements for repair logs for control devices failing a visible emissions test; clarification of the due date for the initial annual report under the 2012 NSPS; flare design and operation standards; LDAR for open-ended valves or lines; compliance period for LDAR for newly affected units; exemption to notification requirement for reconstruction; disposal of carbon from control devices; the definition of capital expenditure; and continuous control device monitoring requirements for storage vessels and centrifugal compressor affected facilities. To the extent that the amendments address the reconsideration petitions, they are not retroactive requirements. We changed some of the proposed language where we agreed that the changes could potentially be construed as retroactive requirements. See section VI.H of the preamble to the final rule for further information regarding this issue.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 93

Comment: EPA Cannot Retroactively Add Control Requirements To Subpart OOOO.

EPA proposed, as §60.5412(d)(1)(iv), several new requirements for combustion devices used to meet the storage vessel emission reduction standard in §60.5395(d). Specifically, this paragraph would require that each combustion devices be designed and operated in accordance with one of the following four performance requirements.

Reduce the mass content of methane and VOC in the gases vented to the device by 95.0 percent by weight or greater as determined in accordance with the requirements of §60.5413.

Reduce the concentration of TOC in the exhaust gases at the outlet to the device to a level equal to or less than 600 parts per million by volume as propane on a dry basis corrected to 3 percent oxygen as determined in accordance with the requirements of §60.5413.

Operate at a minimum temperature of 760°C for a control device that can demonstrate a uniform combustion zone temperature during the performance test conducted under §60.5413.

If a boiler or process heater is used as the control device, then you must introduce the vent stream into the flame zone of the boiler or process heater.

First, Subpart OOOO currently only requires, in §60.5412(d)(1), that each enclosed combustor be "designed to reduce the mass content of VOC emissions by 95.0 percent or greater." The addition of these proposed requirements in §60.5412(d)(1)(iv) means that an owner/operator fully in compliance with the current provisions in §60.5412(d)(1) could find themselves unable to comply with the new requirements in §60.5412(d)(1)(iv).

Second, the first three options require that compliance be demonstrated in accordance with §60.5413. However, the requirements in §60.5413(b), which would be used to demonstrate compliance with these options, do not apply to control devices for storage vessel affected facilities. Specifically, the introduction to §60.5413 indicates that "This section applies to the performance testing of control devices used to demonstrate compliance with the emission standards for your centrifugal compressor affected facility." The only requirements contained in §60.5413 that apply to storage vessels are those in paragraph (d), which are specific to combustion devices tested by the manufacturer. As discussed in more detail below in section 6.6, EPA did not propose any testing requirements for storage vessel combustion devices not tested by the manufacturer. Therefore, the reference to §60.5413 proposed in §60.5412(d)(1)(iv)(A) through (C) has no context.

For these reasons, EPA must not finalize the proposed requirements in §60.5412(d)(1)(iv)(A) of Subpart OOOO.

Response: Concerning retroactive requirements, see our response to DCN EPA-HQ-OAR-2010-0505-6884, Excerpt 15.

Although not explicitly stated by the commenter, our understanding of their concern that "an owner/operator fully in compliance with the current provisions in §60.5412(d)(1) could find themselves unable to comply with the new requirements in §60.5412(d)(1)(iv)" is based on the

inclusion of methane in the 95 percent emission reduction requirement. We included methane inadvertently and have removed this language in the final standards.

The EPA disagrees with the commenter's assertion that §60.5413(b) does not apply to storage vessel affected facilities. The statement in the introductory paragraph to §60.5413 ("In addition, this section contains the requirements for enclosed combustion device performance tests conducted by the manufacturer applicable to both storage vessel and centrifugal compressor affected facilities") does not make §60.5413(b) inapplicable to affected facilities that are performance-tested by the operator. The EPA considers §60.5413(b) applicable because the heading to the section states "What are the performance testing procedures for control devices used to demonstrate compliance at my storage vessel or centrifugal compressor affected facility?"

Commenter Name: Gary Buchler
Commenter Affiliation: Kinder Morgan, Inc.
Document Control Number: EPA-HQ-OAR-2010-0505-6857
Comment Excerpt Number: 73

Comment: EPA proposes to revise NSPS OOOO to state the following:

Section 60.5370 is amended by adding paragraph (d) to read as follows: § 60.5370 When must I comply with this subpart?

* * * * *
(d) You are deemed to be in compliance with this subpart if you are in compliance with all applicable provisions of subpart OOOOa of this part.

Though Kinder Morgan does not object to the intent behind this language given the unique relationship between NSPS OOOO and NSPS OOOOa and the cross-referencing of the regulatory regimes, Kinder Morgan requests that EPA clarify in the preamble to the final rule that the inverse of the above provision would not also be true. In other words, a violation under NSPS OOOO should not also be considered a violation under NSPS OOOOa (or vice versa) for the same requirement/provision. While we do not believe this is or should be EPA's intent, EPA must make clear that it does not intend for enforcement to be brought under two identical provisions for one single non-compliance event. Such a result would be unreasonable and unnecessary from an enforcement or deterrent perspective.

Response: The EPA points out that subpart OOOOa applies to all affected facilities that are constructed, modified, or reconstructed after September 18, 2015. Affected facilities under subpart OOOO are those affected facilities that are constructed, modified, or reconstructed after August 23, 2011, but on or before September 18, 2015. Affected facilities are not subject to both OOOO and OOOOa simultaneously. An affected facility under subpart OOOO that is modified or reconstructed after September 18, 2015, becomes subject only to subpart OOOOa.

In this way, an affected facility for either subpart is not an affected facility for both subparts at the same time, and so this clarification is unnecessary.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 35

Comment: API Agrees With EPA's Proposal To Maintain The Streamlined Monitoring Requirements For Storage Vessels But Disagrees With The Proposed Addition Of Performance Testing Requirements

During the "reconsideration" of Subpart OOOO (proposed April 12, 2013, finalized September 23, 2013 and continued until this proposal), EPA found that "compliance monitoring provisions and field testing provisions of the final rule may not be appropriate for this large number of affected storage vessels, which is much greater than we had expected and with many in remote locations." Further, EPA found it appropriate to only include "streamlined monitoring and continuous compliance demonstration requirements to provide assurance" (see 78 FR 22134). The streamlined monitoring provisions consisted of monthly sensory (i.e. OVA) inspections and monthly observation for visible smoke emissions employing section 11 of EPA Method 22 for a 15 minute period.

In this proposal, EPA has retained the "streamlined monitoring provisions" (see §60.5412a(d)(1)(i) through (iii)). Despite the fact that nothing has changed since 2012 with regard to the number of storage vessels and their remote location, EPA reinstated the performance testing without responding to most of the concerns raised during the reconsideration process. API supports EPA's decision to maintain the "streamlined monitoring provisions" in lieu of most of the continuous monitoring requirements finalized in 2012. Additionally, API appreciates and supports EPA's revision to the outlet concentration compliance method of §60.5412a(d)(1)(iv)(B) raising the TOC (minus methane and ethane) level from 20 ppmv to 600 ppmv. However, EPA did not address API's significant concerns regarding the percent pollutant reduction method of §60.5412a(d)(1)(iv)(A) or any of the performance testing provisions of §60.5413a or continuous monitoring provisions of §60.5417a. API continues to believe that unaddressed provisions are unnecessarily complex and stringent.

Response: See response to EPA-HQ-OAR-2010-0505-6884, Excerpt 93. The EPA notes that the proposed rule addressed only those reconsideration issues for which the EPA granted reconsideration.

Commenter Name: Mike Gibbons, Vice President – Production
Commenter Affiliation: CountryMark Energy Resources, LLC

Document Control Number: EPA-HQ-OAR-2010-0505-6241
Comment Excerpt Number: 63

Comment: NSPS OOOO Exemptions

EPA utilizes the proposed regulation provide to improve and clarify sections that OOOO did not provide adequate information. We request additional clarification related to the exemptions provided in OOOO. For example, OOOO provides an exemption for a tank that emit less than 6 tons per year. Will a facility where a tank emits less than 6 tons per year also not require VOC monitoring?

Response: The comment raises issues beyond the scope of this rulemaking.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 96

Comment: EPA Must Clarify That No Performance Testing Requirements For Storage Vessel Affected Facilities Were Proposed For NSPS Subpart OOOO

Throughout the preamble, EPA discusses the implementation improvements made as a result of the reconsideration of issues raised in administration reconsideration petitions on the 2012 final rule. One of the major implementation improvements is related to the performance testing requirements for control devices used to comply with the storage tank requirements. For example:

"In this rulemaking, the EPA is granting reconsideration of a number of issues raised in the administrative reconsideration petitions and, where appropriate, is proposing amendments to address such issues. These issues, which mostly address implementation, are as follows: storage vessel control device monitoring and testing provisions." (80 FR 56598)

"As proposed, initial and ongoing performance testing will be required for any enclosed combustors used to comply with the emissions standard for an affected facility and whose make and model are not listed on the EPA Oil and Natural Gas Web site . . . . Performance testing of combustors not listed at the above site would also be conducted on an ongoing basis, every 60 months of service, and monthly monitoring of visible emissions from each unit is also required." (80 FR 56645)

These statements are reflected in proposed Subpart OOOOa. Specifically, §60.5410a(h)(4) and §60.5413a(b)(5)(i) both would require that initial performance tests be conducted "within 180 days after initial startup." In addition, §60.5410a(h)(4) adds "or within 180 days of [date 60 days after publication of final rule in the **Federal Register**], whichever is later". While this inconsistency creates confusion for those sources that have a startup date prior to 60 days after

publication of the final rule, it is clear that EPA intends to require initial performance testing for control devices used to comply with the Subpart OOOOa storage vessel requirements. The periodic performance testing requirements are also clear in Subpart OOOOa, as both §60.5413a(b)(5)(ii) and §60.5417a(h)(4) would require periodic tests every 60 months after the initial test.

API notes that the initial and periodic performance test requirements for storage vessel control devices in the model rule language in the draft Control Technique Guidelines released by EPA on September 18, 2015 (80 FR 56577) is consistent with the proposed Subpart OOOOa.

However, it is not clear whether EPA intended to include these same performance testing requirements in the proposed amendments to Subpart OOOO. There are no amendments proposed that would require an initial performance test for storage vessels. In Subpart OOOO, no paragraph was added to §60.5410(h) that is analogous to the initial testing requirement for storage vessels proposed in §60.5410a(h)(4), and §60.5413(b) only applies to control devices used to meet the centrifugal compressor requirements in §60.5412(a). Note that proposed §60.5413a(b) clearly states that the provisions in that section, including the initial testing requirements in §60.5413a(b)(5)(i), apply to control devices meeting the centrifugal compressor requirements in §60.5412a(a) and the storage tank requirements in §60.5412a(d).

Based on the lack of proposed amendments to Subpart OOOO described above, it could be assumed that EPA did not intend to apply testing provisions for storage vessel control devices for storage vessel affected facilities constructed, reconstructed, or modified between August 23, 2011 and September 18, 2015. However, this interpretation is clouded by the fact that EPA did propose to add paragraph §60.5417(h)(4), which requires periodic performance tests. However, it is unclear whether EPA intended to require periodic testing for storage vessel control devices subject to Subpart OOOO or whether this was an inadvertent inclusion.

Proposed paragraph §60.5417(h)(4) states:

(4) Conduct a periodic performance test no later than 60 months after the initial performance test as specified in §60.5413(b)(5)(ii) and conduct subsequent periodic performance tests at intervals no longer than 60 months following the previous periodic performance test.

Based on the rationale below, API concludes that EPA did not intend to require this testing for storage vessel affected facilities.

The introductory text for §60.5410(h) indicates that in order to demonstrate continuous compliance for a storage vessel affected facility, the requirements of paragraphs (h)(1) through (3) must be met. This language was not amended to include a reference to paragraph (4). Therefore, technically, compliance with this paragraph is not required.

Proposed §60.5417(h)(4) indicates that the periodic performance test be performed 60 months after the initial performance test as specified in §60.5413(b)(5)(ii). However, §60.5413(b)(5)(ii) applies only to centrifugal compressor affected facilities and, as discussed above, there is no requirement for initial performance testing for storage vessel affected facilities.

The preamble did not indicate that these implementation improvements were applicable to Subpart OOOO.

EPA clearly did not estimate the cost of testing in any of their justification for the proposed amendments to Subpart OOOO.

Therefore, EPA must remove the proposed §60.5410(h)(4) to clarify that clearly they did not intend to retroactively apply the implementation improvements related to storage vessel initial and periodic testing to storage vessel affected facilities subject to Subpart OOOO.

Response: The EPA did not finalize the proposed addition of §60.5417(h)(4) due to concerns expressed by commenters that this change could be construed to be a retroactive requirement.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 97

Comment: EPA Cannot Finalize Performance Testing Requirements For Storage Vessel Affected Facilities For NSPS Subpart OOOO

API recognizes the possibility that EPA did intend to require initial and periodic performance testing for storage vessel affected facilities under Subpart OOOO. If this was the case, EPA must not include such provisions in the final rule. As discussed above, EPA clearly did not propose such amendments on September 18, 2015. Therefore, the public did not have the opportunity to comment on such proposed requirements. Even if EPA attempts to claim that it was their intention to propose testing requirements for storage vessel affected facilities subject to Subpart OOOO, there are numerous aspects related to the addition of these requirements that would need to be included (e.g., When is the initial performance test required? What if the control device met the required to be "designed" to achieve 95% reduction but cannot meet achieve such reduction during a performance test?). EPA is not allowed to finalize such provisions without providing the opportunity for the public to comment.

If EPA elects to move forward and require initial and periodic testing of control devices for storage vessel affected facilities under Subpart OOOO, they must issue a separate proposal and allow the opportunity for the public to comment.

Further, as discussed below, the storage vessel testing and monitoring requirements proposed for Subpart OOOOa are inappropriate, infeasible, and unjustified.

Response: See response to DCN EPA-HQ-OAR-2010-0505-6884, Excerpt 93.

Commenter Name: Alvyn A. Schopp, Chief Administration Officer and Regional Vice President and Treasurer
Commenter Affiliation: Antero Resources Corporation
Document Control Number: EPA-HQ-OAR-2010-0505-6935
Comment Excerpt Number: 16

Comment: The frequency of the visible emissions tests for combustion control devices should remain quarterly instead of increasing to monthly

USEPA proposes to increase the frequency for visible emission tests at 40 CFR § 60.5413(e)(3) and to impose the same test frequency under the proposed 40 CFR § 60.5413a(e)(3). A visible emissions test conducted according to section 11 of Method 22 must be performed at least once every calendar month, separated by at least fifteen (15) days between each test. The observation period shall be fifteen (15) minutes with no visible emissions, except for periods not to exceed one (1) minute. Antero notes that the requirement represents an increase in test frequency from quarterly to monthly, which is unsupported by any cited need. Antero sees no justification for the increase and the time differential simply adds to the regulatory burden of the rule. Antero suggests the frequency of the visible emissions test should remain quarterly instead of increasing to monthly because once production begins, operations are at a relatively steady state but with declining production and, therefore, declining emissions.

Response: The EPA proposed the change for visible emissions testing of manufacturer tested combustion control devices from quarterly to monthly based on information provided in the petitions for reconsideration that indicated it would ease implementation burdens. We agreed with the petitioners and proposed the change, which we are now finalizing. See section VI.H.1 of the preamble to the final rule for more information regarding this issue.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 99

Comment: EPA Should Only Require Control When There is Flow into the Storage Vessel

Temporary shut-ins can result in a loss of gas supply to the flare pilot, rendering the control device non-operational. During such temporary shut-ins, working and flash losses from storage vessels cease completely because the producing well stopped flowing. A negligible amount of breathing loss (evaporation) emissions may continue to occur. The current language in §60.5412(d)(3) is:

You must operate each control device used to comply with this subpart at all times when gases, vapors, and fumes are vented from the storage vessel affected facility through the closed vent system to the control device.

Thus, to control only the remaining, negligible breathing losses during a temporary well shut in, a supplemental source of fuel gas may need to be purchased to operate the pilot for a flare or combustor. In some cases that is not even a viable option due to the remoteness of the location and thus the temporary shut-in could result in a requirement to empty, degas and clean the storage vessel before conducting the maintenance activity that would result in a temporary shut-in. API suggests the following revision to §60.5412(d)(3) to address this issue.

§60.5412(d)(3) You must operate each control device used to comply with this subpart at all times when gases, vapors, and fumes from working or flash losses are vented from the storage vessel affected facility through the closed vent system to the control device. You may vent more than one affected facility to a control device used to comply with this subpart.

Response: The EPA disagrees that breathing losses are negligible. While the example cited by the commenter may be possible, the remedy proposed by the commenter is directed to one specific situation, and provides no assurance that the breathing losses vented to the atmosphere without control would always be negligible such that the remedy would not cause significant emissions. In addition, difficult compliance issues related to how the owner or operator would be able prove there was no flow into the storage vessel would make the commenter's proposed solution unworkable.

Commenter Name: Howard J Feldman
Commenter Affiliation: American Petroleum Institute
Document Control Number: EPA-HQ-OAR-2010-0505-6884
Comment Excerpt Number: 43

Comment: THE PROPOSED BY-PASS DEVICE REQUIREMENTS ARE NOT REASONABLE AND WERE NOT JUSTIFIED BY EPA

EPA has added requirement to install a flow indicator and audible alarm and initiate notification via remote alarm to the nearest field office on the bypass device that could divert the stream away from the control device or process to the atmosphere. There are numerous issues with this proposal:

- It appears to create retroactively revised requirements for existing sources under Subpart OOOO, which should not be done.
- The proposal in Subparts OOOO and OOOOa is inconsistent.
- EPA did not include the cost of the alarm and notification system in the cost analysis for Subparts OOOO or OOOOa.
- Requiring notification presumes that automation with remote transmission capabilities is already present on site which may not be the case. If existing automation and remote transmission capabilities don't exist it would be unreasonable to require installation of these for purposes of monitoring a bypass device.
- The verification processes are different for secured and non-secured devices.

These issues are discussed below in sections 14.1 through14.4. The by-pass requirements should be the same for non-secured and secured devices, only indicate an alarm onsite, and the requirements should not retroactively revise Subpart OOOO. Table 14-1 illustrates the existing rule language and points out inconsistencies and Table 14-2 provides recommended rule changes.

Retroactive Equipment Requirements

EPA appears to have retroactively changed the requirements under §60.5411(a)(3)(i)(A), §60.5411(c)(3)(i)(A), and §60.5416(c)(3)(i) to require that an alarm must be transmitted to the nearest field office since these rules apply to sources installed between August 23, 2011 and September 18, 2015. Previously, for compressors, there must only be an alarm with no indication of the location and for storage vessels there was an option for an alarm on site or remote alarm. Subpart OOOO currently reads:

§60.5411(a)(3)(i)(A) You must properly install, calibrate, maintain, and operate a flow indicator at the inlet to the bypass device that could divert the stream away from the control device or process to the atmosphere that is **capable of taking periodic readings as specified in §60.5416(a)(4) and sounds an alarm** when the bypass device is open such that the stream is being, or could be, diverted away from the control device or process to the atmosphere. **[Emphasis Added]**

§60.5411(c)(3)(i)(A) You must properly install, calibrate, maintain, and operate a flow indicator at the inlet to the bypass device that could divert the stream away from the control device or process to the atmosphere **that sounds an alarm, or, initiates notification via remote alarm to the nearest field office,** when the bypass device is open such that the stream is being, or could be, diverted away from the control device or process to the atmosphere. **[Emphasis Added]**

EPA has no authority under § 111 to impose retroactive requirements. Therefore, EPA must make it clear in the final rule that these new requirements apply only prospectively to newly affected sources. In any event, the additional cost of having to add the equipment, do the programming, and maintenance of a system not already in place to send a notification to the nearest field office was not included in the cost analysis as discussed further in Section 14.3. Please Table 14-2 see for proposed changes to the rule.

The Requirements Are Inconsistent for Bypass Devices for Subparts OOOO and OOOOa

The proposed requirements are inconsistent between Subpart OOOO and Subpart OOOOa and between the different affected sources. These inconsistencies lead to problems implementing the requirements. A facility may have an affected storage vessel and an affected pump with multiple alarm requirements. If these requirements remain in Subpart OOOO, the requirement should be consistent with Subpart OOOOa to avoid confusion. Furthermore, the requirement should be consistent between the affected sources (i.e., storage vessels, pumps, and compressors).

Please see Table 14-1 [Table 14-1 Comparison of Regulation Text as Written (compares OOOO for Centrifugal Compressors to OOOOa for Compressors and Pumps and OOOO for storage

vessels to OOOOa for storage vessels)] for further information on the inconsistencies between the two proposals and Table 14-2 [Table 14-2 - Recommended Rule Text Revisions for Bypass Requirements - Redline] for proposed changes to the rule.

EPA Did Not Consider the Cost of the Alarm and Notification Requirements

In the proposed non-secured by-pass device requirements, EPA did not consider the cost and technical feasibility of an audible alarm and notification via remote alarm at the nearest field office. A remote alarm at a field office does not add any additional environmental benefit where an onsite device meets the intent of the alarm requirements. There are several considerations for a field office to receive data from field locations including onsite equipment, programming, and installation and maintenance. Adding an alarm will require installation of new equipment requiring potentially a facility to be shut down and the equipment purged so that "hot work" can be performed to install the equipment which will result in additional emissions. Furthermore, a company would need a remote transmitter unit (RTU) installed or have an existing RTU with sufficient capacity to transmit a signal from the device to an operations center to notify the operations center. There are also cost associated with programming, installation, and maintenance of the alarm. Equipment and installation costs are several thousands of dollars for each data point, per site, routed into a system, even if existing monitoring equipment is located onsite. Ongoing support and maintenance of the monitored parameter is required to sustain operation. EPA did not include any of these costs in the justification for the proposed requirements.

The Verification Process between Secured and Non-secure is Inconsistent

For bypass devices secured with a car-seal or lock-and-key type configuration, the requirement is for visual verification that the device is secured. The requirements for non-secured devices should be similar and only require verification if the alarm -whether audio or visual -has been triggered. Since there is a flow indicator present, the amount vented would be known. Please see Table 14-2 for proposed changes to the rule.

Response: In the proposed rule, the EPA proposed to amend subpart OOOO by changing "or" to "and" at §§60.5411(a)(3)(i)(A) and 60.5411(c)(3)(i)(A). This proposed change would have required that both an audible and remote alarm be installed on a bypass device with the potential to vent to the atmosphere. In response to comments that the requirements would be applied retroactively, the EPA changed the requirements in subpart OOOO as well as subpart OOOOa to maintain consistency between the two rules. The EPA agrees with the commenter that our intent was not to create a retroactive requirement by revising subpart OOOO. The EPA is therefore not finalizing this change in §60.5411(a)(3)(i)(A) or §60.5411(c)(3)(i)(A). See section VI.H.2 of the preamble to the final rule for more information regarding this issue.

Although we are not finalizing both audible and remote alarm requirements in subpart OOOO, we are preserving the option as an alternative to an audible alarm in the final rule.